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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

BRETT WADE HERSHBERGER,

Defendant.

Case No. 3:13-CR-00024-RRB-MMS-1

**MOTION TO CLARIFY
SENTENCE**

Defendant, Brett Wade Hershberger, by and through counsel Jane M. Imholte, Assistant Federal Defender, hereby moves the Court to clarify his sentence, previously imposed by the Court on April 17, 2020. Dkt. #154.

At the time of sentencing, Mr. Hershberger had, and still has, a pending matter in state court. As such he was remanded to state custody on April 18, 2020. He has received no credit from Bureau of Prisons (“BOP”) since that date. This Court made no indication about whether its sentence should run concurrent or consecutive to any time ultimately imposed by the State, or any time served in state custody while that case remains pending.

The BOP will not credit Mr. Hershberger with any time he does awaiting the resolution of his state case, which, given the ongoing Covid-19 pandemic, may take months to resolve. Therefore, this Court should clarify its prior sentence and order that the sentence in this case run concurrent with all time served pre-trial or imposed in Alaska State case 3KN-19-01972CR.

Accordingly, Mr. Hershberger urges the Court to issue an amended judgment clarifying that its sentence should be deemed to run concurrent with any time served, pretrial or post-conviction, in Mr. Hershberger's state case as noted above.

DATED this 11th day of June, 2020.

Respectfully submitted,

FEDERAL PUBLIC DEFENDER
FOR THE DISTRICT OF ALASKA

/s/ Jane M. Imholte

Jane M. Imholte

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Certificate of Service:

I hereby certify that I electronically filed the foregoing and any attachments with the Clerk of Court for the United States District Court for the District of Alaska by using the district's CM/ECF system on June 12, 2020. All participants in this case are registered CM/ECF users and will be served by the district's CM/ECF system.

/s/ Jane M. Imholte